



September 27, 2011

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, California 95814

Re: 15-day comments on proposed changes to cap and trade regulations  
September Discussion Draft

Subchapter 10 Climate Change, Article 5, Sections 95800 to 96022,  
Title 17, California Code of Regulations

Dear Sir or Madam:

The Green Exchange LLC ("GreenX") welcomes the opportunity to comment on the proposed rules for implementation of the AB 32 cap and trade program, referenced above.

GreenX is a consortium of leading financial institutions, energy companies, environmental brokerages, and CME Group that was created to offer the trading community a global solution for managing risk in environmental commodity-based futures and options products. These include products based upon the European Union carbon trading program, the Kyoto protocol carbon offset program, the U.S. Regional Greenhouse Gas Initiative, and other regional, national, and international markets. GreenX has listed a California carbon allowance futures contract for trading and, as part of its ongoing efforts to provide service to the environmental market, GreenX would consider listing a carbon offset contract if regulatory and market conditions permitted it to do so.

We wish to provide our input on three topics. First we would like to address the ability of the Executive Officer to reverse trades, which we believe is significant to having an effective and well-functioning greenhouse gas reduction program based on a cap and trade approach. Secondly, we wish to address the administrative issue of the requirement of holders of Exchange Clearing Holding Accounts to retain transaction records. Thirdly, we would like to comment on the inadequacy of a single alternate account representative for Exchange Clearing Holding Accounts.





### **1. We urge ARB not to rely on “reversal” of trades by the Executive Officer**

In a letter to ARB dated August 15, 2011, GreenX provided comments explaining how the Executive Officer’s authority to reverse trades is extremely problematic and will have a disruptive effect on the market. In particular, the provision, as described in 95920(b)(4), will interfere with the sanctity of contract, result in litigation between market participants, and will cause a lack of confidence in the secondary market for compliance instruments. In addition, GreenX is increasingly concerned with potential market manipulation and “gaming of the system” that could result if trades that breach holding limits are reversed. By way of example, suppose an entity entered into a contract to purchase allowances at a predetermined price at a specific date in the future. Further suppose that during the time between the date contract was entered and the date the contract expired, the price of allowances declined dramatically, thereby making the contract out-of-the-money. Under the current provision, said entity could, however, go to the spot market and purchase allowances up to their holding limit, knowing that the futures/forward transaction would be reversed as soon as the excess allowances triggered the holding limit provision. This type of gaming would thwart the development of exchange-traded futures and over-the-counter forward markets, destroying the mechanism by which forward price signals are created.

### **2. We request ARB to amend the transaction records retention requirement for holders of Exchange Clearing Holding Accounts from 10 years to 5 years**

In general, GreenX supports the changes proposed in 95921(g) with respect to exempting holders of exchange clearing holding accounts from reporting the information requested in 95921(c)(4-7). GreenX, however, requests ARB to reduce the records retention requirement for transactions from ten years to five years. Regulated exchanges like GreenX are required by the CFTC to maintain transaction level records for five years. To impose a longer record keeping period on exchanges is unnecessarily burdensome and costly. Record retention of this magnitude would require significant hardware investment, an expense exchanges would likely pass on through transaction fees to market participants.

### **3. We request ARB to allow authorized account representatives of Exchange Clearing Holding Accounts to designate up to ten alternate account representatives**

As we mentioned in our August 15, 2011 letter to the Board, a large number of deliveries of exchange contracts occur on a single day, or several days, throughout the course of a calendar year. On these specific days, millions of allowances may pass through clearinghouses’ registry accounts. To facilitate timely and accurate deliveries,



the clearinghouse will often dedicate the entire Deliveries Team (5-10 staff members) to the process. By allowing up to ten users access to the exchange clearing holding account, these risks will be mitigated. We would therefore propose the following additional paragraph to the proposed rule 95832:

“(i). For exchange clearing trading accounts, the authorized representative may designate up to ten delivery analysts responsible for the account to directly access the account and assist in performing the functions of an entity meeting the requirements of 95814(a)(3) and making submissions pursuant to 95832(h).”

Thank you for the opportunity to provide these comments.

Should you have any questions regarding GreenX's comments, please contact me at 858-504-0333 or [john.melby@thegreenx.com](mailto:john.melby@thegreenx.com).

Respectfully submitted,

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